IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23864 of 2004

Between:

Sri Balaji PBMR Pvt.Limited, Miryalaguda, rep., by its Managing Director Shri Gouru Srinivas, s/o Laxmi Pathi, r/o H.No.18-1104, Ashok Nagar, Miryalguda, Nalgonda District.

..... PETITIONER

AND

1 The Mandal Revenue Officer (Civil Supplies), Miryalguda Mandal, Nalgonda District.
2 The Joint Collector (Civil Supplies), Nalgonda.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue preferably a writ in the nature of certiorari or any appropriate writ calling for records pertaining to the proceedings No.CS1/2048/2003, dt.13-12-2004 passed by respondent No.2 and quash the same.

Counsel for the Petitioner: MR.A.RAJASEKHAR REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

The petitioner is a rice mill. Apart from its activity, it supplies rice to Food Corporation of India and other agencies towards levy. Through the order dated 13-12-2004, the second respondent blacklisted the petitioner for the year 2004-2005. The same is challenged in this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The second respondent issued a show cause notice dated 12-10-2004 to the petitioner calling upon to show cause as to why it should not be blacklisted in the matter of participating in the Mill Levy. The allegation against the petitioner was that in an inspection conducted by the Mandal Revenue Officer, Miryalaguda, the first respondent, on 12-10-2004, it was noticed that there was a discrepancy of raw rice in an extent of 120 quintals and thereby, the petitioner is presumed to have indulged in clandestine activities. The petitioner submitted its explanation on 01-11-2004, wherein, it was stated that it received the quantity of rice, referred to above, from another dealer and even before the stock was entered into the register, the inspection took place and a presumption was drawn. The first respondent was not convinced with this explanation and passed the impugned order.

Even from a perusal of the impugned order, it is evident that the petitioner

was dealing with huge quantities of paddy and rice. According to the opening balance of the stock register, the petitioner was holding paddy of 8426 quintals. On physical verification, it was found to be accurate so was the case with 595 quintals of boiled rice and 120 quintals of broken rice. The discrepancy is about 120 quintals of raw rice. The petitioner categorically stated in its explanation that it received the said quantity of rice from another dealer by name M/s. Tallam Ashok Grains and General Merchants. It is settled principle of law that a dealer is entitled to make entries in relation to the stocks maintained by it at the end of the day. Discrepancies cannot be pointed out on the basis of inspections conducted during the course of the day. They are not supposed to enter every quantity as and when received or put to milling, etcetera. At any rate, with the repeal of the various control orders in the year 2002, there do not exist any restrictions on stocking or transport of paddy and rice. The petitioner is not supplied with any commodities by the Government for public distribution. When there is no control as to stocking or transport and when the effort of the petitioner is to offer Levy, the allegation that it is indulging in clandestine business, is,in a way self-contradictory.

For the foregoing reasons, the writ petition is allowed and the impugned order is set aside. The petitioner shall be accorded the same treatment as others in the matter of Mill Levy for the season 2004-2005. No order as to costs.

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27-12-2004

Note: Issue C.C. by one week

(B/0)

kdl

To

1 The Mandal Revenue Officer (Civil Supplies), Miryalguda Mandal, Nalgonda District.

2 The Joint Collector (Civil Supplies), Nalgonda.

3 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, A.P., Hyderbaa, (OUT).

4 Two C.D. Copies.